

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	VIRGINIA M. KENDALL	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	12 C 0650	DATE	February 10, 2012
CASE TITLE	U.S. ex rel. Richard Gonzalez (#N-23947) vs. Mike Atchinson		

## DOCKET ENTRY TEXT:

Petitioner's motion for leave to proceed *in forma pauperis* [#5] is granted. Petitioner's motion to hold federal habeas corpus in abeyance [#3] is granted. The case is stayed pending disposition of ongoing post-conviction proceedings in the state Court system. Respondent need only enter an appearance at this time; no response to the petition is required until the stay is lifted.

■ [For further details see text below.]

Docketing to mail notices.

## STATEMENT

Richard Gonzalez, an Illinois state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his convictions for armed robbery with a firearm and for being an armed habitual criminal on the grounds that: (1) the State failed to prove his guilt beyond a reasonable doubt; and (2) trial and appellate counsel were ineffective.

Petitioner having shown that he is indigent (he has a negative balance in his prison trust account), his motion for leave to proceed *in forma pauperis* is granted.

Petitioner maintains that he has exhausted state court remedies as to all claims raised in his habeas petition and appears to have filed this action in a timely manner. However, he requests that this case be held in abeyance pending resolution of a successive post-conviction petition he has filed in state court and concerning which he is awaiting ruling. Petitioner filed his federal habeas petition now in order to preserve his right to federal review of his conviction. The motion is granted. This case is stayed pending disposition of the ongoing post-conviction proceedings. Petitioner is directed to file a status report by May 1, 2012, notifying this Court as to the posture of the state court case.

Respondent need only enter an appearance at this time. Respondent will be directed to answer the petition or otherwise plead after the case stay has been lifted. This preliminary order does not, of course, preclude the State from making whatever waiver, exhaustion or timeliness arguments it may wish to present.

(CONTINUED)

mjm

**STATEMENT (continued)**

Petitioner is instructed to file all future papers concerning this action with the Clerk of Court in care of the Prisoner Correspondent. Petitioner must provide the Court with the original plus a judge's copy (including a complete copy of any exhibits) of every document filed. In addition, Petitioner must send an exact copy of any court filing to the Chief, Criminal Appeals Division, Attorney General's Office, 100 West Randolph Street, 12<sup>th</sup> Floor, Chicago, Illinois 60601. Every document filed by Petitioner must include a certificate of service stating to whom exact copies were sent and the date of mailing. Any paper that is sent directly to the judge or that otherwise fails to comply with these instructions may be disregarded by the Court or returned to Petitioner.